

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

DARYL HOLLOWAY,
Plaintiff,

v.

Case No. 19-cv-1460

CITY OF MILWAUKEE, et al.,
Defendants.

ORDER

Plaintiff's amended complaint raises claims under 42 U.S.C. § 1983 against the City of Milwaukee and several of its police officers relating to his arrest and 1993 convictions for rape, which were ultimately overturned in 2016 based on DNA evidence. Named among the defendants are two deceased officers, George Ellenberger and William Stawicki. See ECF Nos. 20-1 & 20-2.

In addressing the City's first motion to dismiss Ellenberger and Stawicki as defendants, I granted Plaintiff leave to file an amended complaint including temporary placeholders for the estates of these deceased defendants until an appropriate party was identified and brought into this lawsuit. See ECF No. 65. See *also* ECF Nos. 99 & 100. The City has since filed a second motion to dismiss Plaintiff's claims as to Ellenberger and Stawicki, as estates for both of these deceased officers do not exist and were never created in the first place. See ECF Nos. 80, 81, & 82. Because estates for these deceased officers do not exist and no other appropriate party is apparent, the motion to dismiss (ECF No. 78) is **GRANTED**. See, e.g., *Casciaro v. Von Allmen*, 2018 WL 4030583, at *4 (N.D. Ill. Aug. 23, 2018) ("Because there is no Estate of William Gruenes, all claims brought against it are dismissed."). See *also U.S. v. Norwood*, 602 F.3d 830, 838 (7th Cir.

2010). Plaintiff's claims as to Ellenberger and Stawicki are **DISMISSED without prejudice**. The Estate of George Ellenberger and the Estate of William Stawicki are **DISMISSED** from this action. The Clerk shall remove these parties from the caption, notice list, and service list in this case. No sanction is warranted. That motion (ECF No. 91) is **DENIED** accordingly.

SO ORDERED at Milwaukee, Wisconsin, this 1st day of December, 2020.

s/Lynn Adelman
LYNN ADELMAN
District Judge